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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,722	01/31/2002	Lars Jorneus	19390.0003	1626

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EXAMINER

LEWIS, RALPH A

ART UNIT	PAPER NUMBER
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3732

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DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/936,722

Applicant(s)

JORNEUS, LARS

Examiner

Ralph A. Lewis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 25-53 and 55-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-53, 55-58 and 62 is/are allowed.
- 6) ☒ Claim(s) 59-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **Rejections based on Prior Art**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 59-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niznick (5,622,500)

Niznick discloses in Figures 9B and 9F a holder 409 having a recess that is operable to engage both a spacer 402 and a screw 413 in a coupled state. The holder 409 includes a grip portion (upper part of Figure 9B) and a recess having both a spacer engaging portion (between 410 and 411) and a screw engaging portion 411. The spacer 402 has a bearing surface that bears against a bearing surface of the implant 400. The bearing surface of the spacer protrudes beyond the holder 409 as clearly shown in Figure 9F. Niznick does not go into detail explaining how a holder can be manipulated to position the spacer 402 and screw 413 into or out of position with respect to the implant, but rather simply states that grip portion 408 is "for engaging a tool suitable [wrench] for manipulating stopper [holder] 401 as desired" (column 6, lines 49-50). Or more particularly, the oral surgeon need no more direction on how to use the implant screw and spacer holder than an auto mechanic needs directions on how to use a wrench for loosening and tightening a bolt. Simply using it to position the screw

and spacer into or out of position with respect to the implant would have been obvious to the ordinarily skilled artisan.

### **Allowable Subject Matter**

The added limitation to claims 25, 34 and 53 that the screw engaging portion of the claimed recess is continuous with the spacer engaging portion is deemed to allowable over the arrangement of Niznick (5,622,500) Figures 9B and 9F wherein the two different engaging portions are separated by the "collar engaging means 411" which juts forward within the recess forming a discontinuous surface between the two engagement portions. Likewise, in Kumar (6,159,008) Figure 6, the spacer 16 engaging portion of holder 12 is separated from the screw 14 engaging surface by projecting members 80a, 80b which jut forward within the recess forming a discontinuous arrangement between the spacer engaging portion and the screw engaging portion.

Accordingly, claims 25-53, 55-58 and 62 are allowed.

### **Action Made Final**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(703) 308-0770**. Fax (703) 872-9306. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (703) 308-2582.

R.Lewis  
April 2, 2004



Ralph A. Lewis  
Primary Examiner  
Au3732